

REMARKS

Applicant submits this Amendment in reply to the Office Action dated March 16, 2004.

By this Amendment, Applicant has amended the specification and provided a substitute Abstract on a separate sheet of paper filed herewith. Applicant has also amended the claims 1-9 and added new claims 10-11 to further define the claimed invention. Claim 1 is the sole independent claim.

Before entry of this Amendment, claims 1-9 were pending in this application. After entry of this Amendment, claims 1-11 are pending in this application.

The originally-filed specification, claims, abstract, and drawings fully support the subject matter of amended claims 1-9 and new claims 10-11. For example, support can be found at least in the originally filed claims. No new matter has been introduced.

On pages 2-3 of the Office Action, suggested guidelines for the preferred layout of the specification of a utility application were set forth. Applicant has amended the specification to conform to the preferred layout.

Applicant respectfully traverses the Examiner's rejection of claims 1-9 under 35 U.S.C. §112, second paragraph. (Pages 3-4 of the Office Action). In order to expedite the prosecution of this application, however, Applicant has amended claims 1-9 to improve readability. Accordingly, Applicant respectfully requests withdrawal of the Section 112, second paragraph rejection.

On page 4 of the Office Action, claims 1-9 were provisionally rejected under 35 U.S.C. §101 as allegedly claiming the same invention as copending Application No. 10/653,359. Applicant respectfully traverses this rejection. In order for there to be a

statutory basis for a provisional double patenting rejection, the inventions must be drawn to **identical** subject matter. Such is not the case here. For example, independent claim 1 of this application recites an “[a]pparatus for pressing an edible article” including, among other aspects, “wherein each at least one independently suspended plunger comprises a lower part having a non-circular cross-section and **at least two upper parts** each having a circular cross-section.” (Emphasis added). In another example, independent claim 1 of Application No. 10/653,359 recites an “[a]pparatus for pressing an edible article” including, among other aspects, “wherein the independently suspended plunger also includes **an upper part** with a sliding surface supported by an opposing sliding surface that defines an opening of the holding device.” (Emphasis added). Accordingly, for at least this reason, Applicant respectfully requests withdrawal of the provisional statutory double patenting rejection.

Applicant further submits that claims 2-11 depend from independent claim 1, and are therefore allowable for at least the same reasons that independent claim 1 is allowable. In addition, at least some of the dependent claims recite unique combinations, and therefore at least some also are separately patentable.

The Office Action contains characterizations of the claims with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, abstract, and drawings in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims

interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

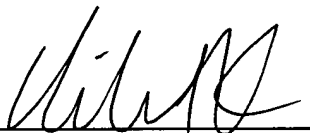
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 14, 2004

By: 
Michael W. Kim
Reg. No. 51,880